

1           A     Terry found it difficult to accept, acknowledge  
2     blame and tended to want to shift it to other people. And -  
3     - and that was -- that was commonly known in the office.

4           Q     Was that his reputation?

5           A     Yes, I guess you could say so.

6           Q     Did you say to Ms. Hamilton during your discussion  
7     on Friday afternoon, that's Terry being Terry, when she  
8     complained of what he was saying or doing about her?

9           A     Boy, I don't -- I don't put any conversation with  
10    Ms. Milstein on Friday afternoon.

11          Q     I'm sorry. Did I say Ms. Milstein? I meant Ms.  
12    Hamilton. When you --

13          A     Yes. Oh, Ms. Hamilton. Yes, yes, yes, I --- I  
14    think I did say that.

15          Q     And what did you mean by that?

16          A     Well, Terry had -- well, to use your words -- a  
17    reputation for wanting to shift the blame to someone else.

18          Q     You didn't mean it as to his dynamic personality  
19    for work and getting ideas accomplished? You meant it in a  
20    negative way?

21          A     In that particular instance, I was referring to an  
22    unfortunate character trait of Mr. Easton, yes. That's  
23    Terry being Terry.

1           Q     Is there anything specific that you could cite to  
2     us as an example of that behavior?

3           A     Just trying to shift the blame for the bidding  
4     error on Ms. Hamilton.

5           Q     But it must have been established before that  
6     time, correct, that reputation?

7           A     I'm trying to think of a specific instance.

8           Q     The basis -- you know, there must have been a  
9     basis for the comment, correct, in your mind?

10          A     Boy, you know, it's kind of one of those things  
11     that's in the atmosphere. If you were to ask anyone in the  
12     office what that term means, they would all come up with  
13     pretty much the same definition.

14          Q     I'm just looking for something a little more  
15     concrete.

16          A     Yes, yes, yes. I have to think about that.

17          Q     Okay.

18          A     Yes.

19                MS. POWER: Well, speaking of that, why don't we  
20     take a break for lunch. This is a good point for me. Is it  
21     for you?

22                MR. CARROCCIO: To me, now is always good for  
23     lunch.

1 MS. POWER: Okay.

2 (Whereupon, at 11:55 a.m., the hearing recessed to  
3 reconvene at 1:30 this same day.)

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THE WITNESS: Actually, before we get started, I  
opportunity to look at these Land Line telephone  
r the break.

Q Okay. And that's your exhibit -- referring to your Exhibit Number 2, I believe. Is that correct?

MR. CARROCCIO: Right. That is correct.

BY MS. POWER:

A     It's fax number 4 and it is also bill number 4 --

A -- bill page number 4.

MR. CARROCCIO: On the photocopy.

Q Okay. Sorry.

Q Yes.

1           A     123, to Klamath Falls, (541) 893-2375, a nine  
2     minute call. That call is to my cellular phone and matches  
3     up with the call that came in at 3:09 on page 8 of the  
4     cellular telephone bill under Redding, California Nonwire  
5     Line.

6                     MR. BUNTROCK: And just to clarify, you said 2375.  
7     I think your phone number is 2373 of the last four digits.

8                     THE WITNESS: 2373, thank you for the correction.  
9     In my testimony, I had attributed that call as being from  
10    Ronit. And it is clear from examining this Land Line  
11    telephone bill that that call in fact was from my office at  
12    Train Mountain. So that instead of there being a -- a -- an  
13    additional call of nine minutes of Ronit at 3:09, I have to  
14    amend my testimony that my conversation, the 16 minute  
15    conversation must have been with Ronit and Mr. Easton  
16    because I now have the additional information here to  
17    confirm that that 309 call came from office rather than from  
18    Train Mountain.

19                    BY MS. POWER:

20           Q     Okay. Thank you very much. I want to move back  
21    for a moment into testimony that occurred before the lunch  
22    break. I believe at one point, you said when you -- when we  
23    were discussing the content of what Cynthia Hamilton had to

1 say to you that late Friday afternoon of January 26th,  
2 Friday, she said that Mr. Easton took the binder. Is that  
3 correct?

4 A Yes.

5 Q And you testified that in your preparation of the  
6 bids for Wednesday, January 24th, you looked for the binder  
7 and -- or that you saw the binder, and so the binder was not  
8 missing.

9 MR. CARROCCIO: Excuse me. I don't believe he  
10 said in the preparation of the bids.

11 MS. POWER: I thought he did.

12 BY MS. POWER:

13 Q Can you reconstruct that testimony, please. And  
14 I'm not trying to trick you or catch you in anything. I'm  
15 just trying to recall what you said.

16 A In the process of doing the actual bidding on  
17 Wednesday morning, the binder was in its proper place.

18 Q Okay. And I asked you if you looked at the  
19 Norfolk bid in the binder for the day before, January 23rd.

20 A I glanced at it.

21 Q Right. And you noticed that the bid amount was  
22 how much?

23 A Eighteen million approximately.

1           Q     Okay. But you had heard that the bid that you  
2 submitted to the FCC was 180 million, is that correct?

3           A     That's right.

4           Q     So were you not surprised to see an 18 million  
5 dollar bid instead of a 180 million dollar bid in the  
6 binder?

7           A     That was part of the mystery.

8           Q     You didn't at that time look for the 180 million  
9 dollar bid?

10          A     I was in the process of making the bid for  
11 Wednesday's bidding. That was my job at that moment. And  
12 that's what I was doing.

13          Q     Did you ask anyone later on that day where the  
14 bidding sheets that reflected 180 million dollars might be?

15          A     Oh, I may have asked Mr. Easton. And he had been  
16 saying on the telephone conference call with Mr. Sullivan  
17 that he had been looking high and low everywhere for  
18 everything that he could find. So -- but that was -- that  
19 was his job to look for it. My job was to do the bidding.

20          Q     Had he said in that conversation that he had  
21 destroyed any documents or discarded any documents --

22          A     No.

23          Q     -- relating to the bidding mistake?

1           A     No.

2           Q     Okay. All right. And in continuing your  
3 conversation with -- and going back to your conversation  
4 with Ms. Harrison -- I'm -- I'm sorry -- Ms. Hamilton. I  
5 have a good friend named Cynthia Harrison. In your  
6 discussion with Cynthia Hamilton on that Friday afternoon,  
7 you -- did you tell her -- you said that she appeared upset?  
8 Is that what you said? I don't remember.

9           MR. CARROCCIO: Is there a question on the table?

10          MS. POWER: Yes, I'm asking -- I think he's  
11 considering the answer.

12          THE WITNESS: Her major concern was with blame.  
13 She saw that she was going to get blamed for this. And she  
14 was concerned about that.

15          BY MS. POWER:

16          Q     Did you tell her that you -- that the -- that PCS  
17 2000 had told the FCC that the bidding error was their fault  
18 and not the FCC's fault?

19          A     I don't have any recollection of that.

20          Q     Were you trying to relieve her concerns when you  
21 spoke to her?

22          A     I was trying to be a friend and hold her hand.

23          Q     But you don't remember telling her that PCS 2000



1 had said that the blame was not at the FCC; that you had  
2 accepted the responsibility for the bidding error?

3 A I don't recall saying it and there's no reason why  
4 I would have.

5 Q Okay. I think that before the lunch break, we had  
6 talked about the expression that you mentioned to Ms.  
7 Hamilton that afternoon of Terry being Terry. Did any  
8 concrete examples come to your mind?

9 A Nothing concrete.

10 Q Okay. Did there come a point in time when Mr.  
11 Lamoso, Mr. Martinez and other members of the board from  
12 Puerto Rico called you and Mr. Easton at San Mateo Group to  
13 tell you that Cynthia Hamilton had just faxed documents to  
14 them and sent in a statement that she had made to the FCC?

15 A Yes.

16 Q Do you remember when that was?

17 A Oh, it was a week or two after the day of the  
18 bidding error. The exact date is in all these records here.  
19 The date doesn't stick if you want to refresh my  
20 recollection.

21 Q Could it have been February 6th?

22 A I believe that's correct.

23 Q Okay. In that time period between January 27th

1 and February 6th, had Cynthia Hamilton's name come up in  
2 conversation at San Mateo Group?

3 A I believe only casually.

4 Q Can you elaborate at all?

5 A There was some speculation about a relationship  
6 she may have had with someone else in the office, personal  
7 stuff.

8 Q Okay. But nothing about the -- the comments that  
9 she made to you that afternoon about Mr. Easton and her  
10 concerns?

11 A No.

12 Q And you did not relate those that conversation --  
13 the contents of that conversation with her to anyone else  
14 during that ten -- ten -- approximate ten day interim?

15 A Not that I recall.

16 Q What was your reaction to the information that --  
17 I presume it was primarily Mr. Lamoso who was on the phone  
18 to you who was doing most of the talking on the conversation  
19 of February 6th? Or if it was someone else, please tell us.

20 A Well, this was a conference call. I believe it  
21 was Fred Martinez, chairman of the board; Javier Lamoso who  
22 was president; the then-treasurer who became later CEO  
23 succeeding Mr. Easton -- the name escapes me at the

1 moment --

2 Q Are you saying that they were all talking or that  
3 there was not --

4 A Well --

5 Q -- one person who did most of the talking?

6 A Well, your question was who was on the line.

7 Q Okay. That's -- I'm sorry. That's not as  
8 important as who was doing most of the talking from the  
9 Puerto Rico side of the conversation.

10 A I believe it was Mr. Lamoso and Mr. Martinez.

11 Q Okay. What was -- I think the question that I  
12 started -- what was your reaction to the information that  
13 Mr. Lamoso and Mr. Martinez was -- were telling you? Sorry.

14 A Oh, well, it was very shocking, of course. I was  
15 shocked.

16 Q Were you angry?

17 A I don't get angry during a crisis. I think about  
18 it.

19 Q What about Mr. Easton, what was his reaction?

20 A He was very quiet.

21 Q He didn't display emotion?

22 A Chagrin maybe, embarrassment, speechlessness at  
23 least for a time. I mean, this all came out of the blue.

1 It was -- it was very distressing.

2 Q Did you at that time relate what you were being  
3 told -- that was attributed to Ms. Hamilton to the personal  
4 discussion that you had had with Ms. Hamilton on the 27th --  
5 26th?

6 MR. CARROCCIO: I'm going to object to the form of  
7 this question, Counselor.

8 BY MS. POWER:

9 Q Do you understand the question, Mr. Breen?

10 A No. Can you restate it?

11 Q Okay. When you were hearing this -- when you were  
12 hearing the conversation from Mr. Lamoso, he was as I  
13 understand -- well, why don't you tell us what he was  
14 telling you about the -- what they had -- what Ms. Hamilton  
15 had told him. And I believe she had told him it was that  
16 day that she had talked to him?

17 A She had sent to the Federal Communications  
18 Commission a copy of bid sheet showing 180 million dollars  
19 and that she had prepared a declaration on the bidding day,  
20 which I believe was the 23rd of January, to the FCC. And I  
21 believe that by the time we were -- now, did the copies come  
22 while they were on the phone or shortly thereafter is not  
23 quite clear to me. But it was almost contemporaneous so

1       that the -- now I'm beginning to confuse in my mind --

2               Q     Take your time. Take your time.

3               A     -- what I felt on reading it from what I felt  
4       about hearing about it. So it's hard for me to distinguish  
5       those two -- those two events, though they were essentially  
6       almost contemporaneous.

7               Q     So you were able to see these documents very soon  
8       after Mr. Lamoso and Mr. Martinez were describing them to  
9       you.

10              A     Yes.

11              Q     Was the -- did you at any time relate what Ms.  
12       Hamilton had said to you on the afternoon of the 26th with  
13       the documents that she sent in as to their -- was there  
14       enough similarity between what the documents were and what  
15       she had said to you that you began to connect them in your  
16       mind?

17              A     No.

18              Q     Okay. Because I think your testimony earlier in  
19       the day was that you began to understand -- it wasn't until  
20       later that you understand why -- began to understand why she  
21       -- well, never mind.

22                   MR. CARROCCIO: Do you want to strike that?

23                   MS. POWER: Yes, yes.

1 BY MS. POWER:

2 Q Were there any decisions made during that  
3 conversation as to what would be the next course of action?

4 A I believe it was that same day that a decision was  
5 made to have a law firm independent of any of the law firms  
6 that presently represented PCS 2000 and which was located in  
7 San Francisco to conduct an investigation to determine the  
8 facts and circumstances surrounding the documents that Ms.  
9 Hamilton had sent to the FCC.

10 Q After the telephone conversation ended, did you  
11 discuss these, shall we call them, revelations from Mr.  
12 Lamoso and Mr. Martinez, this new news, did you discuss that  
13 with Mr. Easton close in time to the end of the  
14 conversation?

15 A I told Mr. Easton that he better get himself a  
16 lawyer and I really didn't say much more than that.

17 Q Did he agree in that telephone conversation to  
18 take a leave of absence?

19 A Yes. Yes, that was -- it was either that  
20 conversation -- that conference or one immediately  
21 following. Again, that could have been a series of closely  
22 spaced conferences. I think there was a conference -- there  
23 was a telephone conference -- either -- either they plugged

1 in the lawyers or the lawyers were on at that -- or there  
2 was a separate one that followed almost immediately after.

3 Q And by the lawyers, you mean counsel for PCS 2000?

4 A Counsel for PCS 2000; both FCC counsel, Mike  
5 Sullivan, and SEC counsel, Frank Goldstein.

6 Q So there were several conversations that afternoon  
7 -- that day?

8 A It all runs together in my mind. But your asking  
9 me about the leave of absence triggers the recollection that  
10 either in that conference or in a subsequent but closely  
11 related conference, additional decisions were made. Mr.  
12 Easton would take a leave of absence. He would resign from  
13 the bidding team. Dan Parks would take his place on the  
14 bidding team. And Javier Lamoso would fly from Puerto Rico  
15 to San Mateo to be present at the bidding.

16 Q Did there come a point in time when you were  
17 interviewed by lawyers for this independent counsel's report  
18 of which I believe you just spoke -- independent counsel who  
19 were asked to do a report on the activities --

20 MR. CARROCCIO: Counsel, would you restate that  
21 question, please?

22 BY MS. POWER:

23 Q Did there come a point in time when you were

1 interviewed by the law firm that was making the independent  
2 report on the bidding activities?

3 A Yes.

4 Q And do you remember how long you spoke to them?

5 A I recall two sessions. Perhaps they were a half  
6 hour each.

7 Q Did you -- were you surprised by any of the  
8 questions they asked you?

9 A Not that I recall.

10 Q Did it seem apparent to you when they were asking  
11 you questions that the interviewer or interviewers were  
12 aware that Cynthia Hamilton had given you information or had  
13 spoken to you on the afternoon of January 26th?

14 MR. CARROCCIO: Counsel, I'm going to object to  
15 the form of that question.

16 BY MS. POWER:

17 Q Do you understand the question, Mr. Breen?

18 A Why don't you restate it.

19 Q When you were interviewed, was there anything in  
20 the interviewer's questions from which you could draw the  
21 conclusion that they had knowledge that Ms. Hamilton had  
22 spoken to you on January 26th?

23 A Yes.



1 Q And how did you know that?

2 A They asked me about it.

3 Q And what did you tell them?

4 A That I had met with Ms. Hamilton that afternoon.

5 Q And did they ask you specifically what you had  
6 said to her?

7 A I presume so.

8 Q Did -- did it appear from the questions that they  
9 asked you that they were aware that Ronit Milstein had  
10 mentioned Ms. Hamilton's departure and her concerns back on  
11 January 24th, the day after the bidding error and the day  
12 that -- the day after the bidding error?

13 A I believe so.

14 Q Did they ask you specifically what Ms. Milstein  
15 said to you?

16 A I presume they did.

17 Q When you say you presume, do you -- do you think  
18 it's natural that they would have or are you -- and you  
19 don't remember or are you -- you seem to remember?

20 A I presume that it's natural that they would have  
21 asked me, but I don't have a specific recollection.

22 Q Okay. Once the independent counsel's report was  
23 finished and was distributed, did anyone ask you why you had

1 not mentioned your conversation with Cynthia Hamilton to  
2 anyone else?

3 A Can you repeat that question, please?

4 Q I'm asking if once the independent counsel's  
5 report was published, did anyone ask you why you had not  
6 mentioned that Cynthia Hamilton had spoken to you on Friday  
7 afternoon?

8 MR. CARROCCIO: I'm going to object to the form of  
9 the question, Counselor. Are you --

10 MS. POWER: Just a minute.

11 BY MS. POWER:

12 Q I'm sorry. Are you making an answer, Mr. Breen?

13 MR. CARROCCIO: I've objected to the form of the  
14 question.

15 MS. POWER: And I've rephrased the question.

16 MR. CARROCCIO: Are you asking if he has been  
17 asked at any time since the independent counsel's report  
18 until this moment or --

19 MS. POWER: I'm sorry. You're right.

20 BY MS. POWER:

21 Q I'm sorry. I meant close in time to the  
22 publication of the independent counsel's report.

23 A Your question assumes that -- I think it assumes

1 -- there's really two questions there. And I'm having  
2 trouble sorting them out. Can you help me, Counsel? I --

3 Q What -- what do you think the two questions are?  
4 I mean, I'm not trying to -- I'm not clear what you're not  
5 clear about.

6 MR. BUNTROCK: I think, if I may, it's kind of the  
7 question, when did you start beating your wife. I mean,  
8 it's assuming that information that -- as a given and then  
9 asking a question about it.

10 BY MS. POWER:

11 Q Well, did anyone ask you about your role in the --  
12 your response to the independent counsel's report close in  
13 time to it being published?

14 A Not that I recall.

15 Q Okay. Last Wednesday during Mr. Lamoso's  
16 deposition, there was a copy of the transcript of his  
17 deposition that was distributed. And there was a quote  
18 there that was attributed to you which was the subject of  
19 conversation. Now, I can pass out the transcript or, if you  
20 remember that comment, we can discuss it without it,  
21 whichever you would prefer.

22 MR. CARROCCIO: Counselor, so that we all know  
23 that we're talking about the same quote, why don't you at

1     least read it into the record.

2             MS. POWER:   Okay.   But he was there when we  
3     discussed it for quite a while.   As I remember, it was on  
4     page 39 of the transcript.   And I'm reading from page 39,  
5     line 7:   "And I remember very clearly Quentin's with Ms.  
6     Milstein's -- it was in a very" -- "in a small office --  
7     saying for too long we have been looking the other way at  
8     things Terry has been doing.   For too long we have been --  
9     we have been looking the other way."

10            MR. CARROCCIO:   Excuse me, Counselor.   That is the  
11     Javier Lamoso deposition of which date?

12            MS. POWER:   It is -- that's right.   It was the  
13     deposition from the deposition.   This is a deposition dated  
14     February 20th, 1997 which we read on Wednesday, January -- I  
15     mean, December 10th -- thank you.

16            THE WITNESS:   May I see the language?

17            MS. POWER:   Yes, you may.   Do you want the whole  
18     thing or just that page?

19            THE WITNESS:   I just need that page.

20            MS. POWER:   All right.   We can enter it into the  
21     -- you just want to look at it?   Okay.

22            MR. CARROCCIO:   You're just refreshing the  
23     Witness' memory?

1 MS. POWER: His recollection.

2 THE WITNESS: That's not the way I talk.

3 BY MS. POWER:

4 Q What do you think your words may have been?

5 A Well, I don't say -- I wouldn't say --

6 MR. CARROCCIO: Excuse me for a second.

7 Counselor, are you asking Mr. Breen to assume that he had  
8 this conversation?

9 BY MS. POWER:

10 Q Do you believe that you had that conversation with  
11 Mr. Lamoso or Ms. Milstein?

12 MR. CARROCCIO: Counselor, there is not enough  
13 in -- right there to say when that conversation was. Would  
14 you like to place it in time?

15 BY MS. POWER:

16 Q Do you remember a conversation similar to this and  
17 when that conversation might have been?

18 A I recall a conversation around the time of,  
19 perhaps before, perhaps after the submission of the  
20 independent counsel's report when Mr. Lamoso, Ms. Milstein  
21 and I were looking towards the future of PCS 2000. I don't  
22 recall these words and they aren't my words because I don't  
23 talk that way. I was an English literature graduate.

1 I recall saying something like the way this  
2 report's going, Terry's not been around too long and we've  
3 got to start looking at this the other way, the other way  
4 being how is it being looked at by the investors, the  
5 limited partners, the FCC. In other words, it's time for  
6 Terry to exit, hopefully quietly, for the good of the  
7 project.

8 Q And you think that's what was capturing those  
9 thoughts, that conversation there is what was capturing your  
10 thoughts that you're telling us today.

11 A I've -- I think Javier heard it in English,  
12 translated it into Spanish and then translated it back into  
13 English. I think that's what happened.

14 Q Okay. Thank you. How did you prepare for this  
15 deposition today, Mr. Breen?

16 A A lot of reading; a lot of questions.

17 Q Questions by whom?

18 A I asked questions, mainly trying to track things  
19 down, refresh my memory.

20 Q Did you see the deposition of Mr. Easton that was  
21 taken on Tuesday, December 9th?

22 A Yes.

23 MR. CARROCCIO: Excuse me, Counsel. Are you

1 asking if he attended the deposition or are you asking if he  
2 saw the transcript of that deposition?

3 MS. POWER: He's answered the question.

4 BY MS. POWER:

5 Q How often are you in contact with Mr. Easton?

6 A The last time I saw Mr. Easton was in Puerto Rico  
7 at a court proceeding. We did not speak. The last time  
8 before that was at a board meeting in June. There were some  
9 telephone conversations trying to effectuate a settlement  
10 prior to that; brief conversation September of last year.  
11 And I believe those are the only contacts since the board  
12 meeting at which he resigned from the board of Unicom.

13 Q And that would have been approximately April of  
14 1996, is that correct?

15 A Approximately, yes.

16 Q Okay. How often are you in contact with Ms.  
17 Milstein?

18 A Ms. Milstein is a contractor doing work for the  
19 MAS project. So every six weeks or so we speak.

20 Q Okay. How often are you in contact with Ms.  
21 Cynthia Hamilton?

22 A She called me two or three times since our meeting  
23 in my office that we've discussed earlier in this

1 deposition.

2 Q Were you in contact with her when you submitted a  
3 declaration to the Commission last June of '97?

4 A My counsel was in contact with her.

5 Q Are you aware if your counsel has taken Ms.  
6 Hamilton out to dinner?

7 A I believe that's the case.

8 Q Do you know how often?

9 A I believe twice.

10 Q Have you made a contribution to the legal group  
11 that is representing Ms. Hamilton? I believe the name is  
12 the First Amendment Group.

13 A No.

14 Q Okay. Excuse me just a moment. I believe we're  
15 almost done. Would you have paid for the dinners that your  
16 counsel -- when your counsel took Ms. Hamilton out to  
17 dinner?

18 A I have no doubt that my counsel paid for the  
19 dinner and that he billed me for it.

20 Q Okay. When you read the transcript from Mr.  
21 Easton's deposition take Tuesday of this week, was there  
22 anything -- was there anything in it that stood out in your  
23 mind as false?



1           MR. CARROCCIO: I'm going to object to the form of  
2 the question because it calls for a conclusion.

3           MS. POWER: I think -- I'm interested in hearing  
4 his thoughts on Mr. Easton's deposition.

5           MR. CARROCCIO: He's here to testify as to facts,  
6 Counsel, not as to his analysis.

7           MS. POWER: I think that's not necessarily the  
8 case. If he --

9           MR. CARROCCIO: If you want to ask him if anything  
10 stated in there is contrary to the facts as he knows them,  
11 you may -- you may go ahead and do so.

12           BY MS. POWER:

13           Q     I think we're picking over words, Mr. Breen, about  
14 Mr. Easton's testimony. Was there any -- were there any  
15 facts stated in the transcript that you think are untrue?

16           MR. CARROCCIO: Counsel, if you want to ask him if  
17 they are inconsistent with what he knows, that is fine.  
18 Otherwise, I will direct the Witness not to answer. You're  
19 asking him to draw a conclusion as to Mr. Easton's intent.  
20 Truth includes intent as opposed to -- are you asking about  
21 accuracy? You may ask him about accuracy. Truth is not  
22 something he can judge without getting inside Mr. Easton's  
23 mind.